

NOT INCLUDED IN
BOUND VOLUMES

Phoenix, AZ

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

RMH FRANCHISE CORPORATION
d/b/a APPLEBEE'S RESTAURANT

and

Case 28-CA-145185

HEIDI JOHNSON

ORDER APPROVING STIPULATION, GRANTING MOTION,
AND TRANSFERRING PROCEEDING TO THE BOARD

This matter comes before the Board upon the joint motion of Respondent RMH Franchise Corporation d/b/a Applebee's Restaurant, Charging Party Heidi Johnson, and the General Counsel in which the parties agree to waive a hearing and decision by an administrative law judge, and request that the proceedings be transferred to the Board for a decision based on the stipulated record.

On February 27, 2015, the General Counsel, through the Regional Director for Region 28, issued a complaint and notice of hearing alleging that the Respondent has maintained and enforced a mandatory Arbitration Agreement containing "Arbitration" and "Class, Collective, and Representative Action Waiver" provisions and maintained a separate Acknowledgement regarding that Agreement. The complaint alleges that, by the foregoing conduct, the Respondent has violated Section 8(a)(1) of the Act by interfering with, restraining, and coercing employees in the exercise of their Section 7 rights.

On May 11, 2015, the parties filed a joint motion and stipulation of facts with the Board. Pursuant to Section 102.35(a)(9) of the Board's Rules and Regulations, the parties have waived a hearing before an administrative law judge and agreed to submit the record in this case directly to the Board for findings of fact, conclusions of law, and a Decision and Order. The parties have requested that the Board set a time for the filing of briefs.

The Board having considered the matter,

IT IS ORDERED that the joint motion is granted and the case is transferred to and continued before the Board in Washington, D.C., for the purpose of issuing findings of fact, conclusions of law, and a Decision and Order.

IT IS FURTHER ORDERED that the stipulated record, which includes the complaint and notice of hearing, the answer, the stipulation of facts, the statement of issues presented, each party's statement of position, and Joint Exhibits 1(a), 1(b), and 2, is approved and made part of the record.

The parties may file initial briefs with the Board in Washington, D.C., on or before November 19, 2015, and answering briefs within 14 days thereafter in accordance with Section 102.35(a)(9) of the Board's Rules and Regulations.¹

Dated, Washington, D.C., October 29, 2015.

¹ Despite the complaint's reference to enforcement of the Arbitration Agreement, the parties' stipulation contains no facts regarding any enforcement of the Agreement and the parties agree that the issue to be resolved is whether the Respondent's maintenance of the Agreement violates Sec. 8(a)(1). Accordingly, our review of the Agreement will be limited to its maintenance.

As recounted above, the complaint alleges that the Acknowledgment of the Agreement likewise violates the Act. Given that the joint motion requests that the entire case be transferred to the Board, and given that the complaint and answer are part of the stipulated record, the Board considers the allegation pertaining to the legality of the Acknowledgement to be part of the proceeding herein transferred to the Board.

By Direction of the Board:

Gary Shinnars
Executive Secretary